

REMARKS

This application is amended in a manner to place it in condition for allowance at the time of the next Official Action.

Status of the Claims

Claims 1, 4, 7-9, 11, 12, and 26 are amended to clarify the claimed invention.

Claims 20-25, 27 and 28 are cancelled without prejudice.

Claims 1-20 and 26 remain in this application.

Objection to the Specification

The specification was objected to for not including a "Brief Description of the Drawings".

The specification has been amended to describe each figure in a manner consistent with the originally filed specification, and to include other section heading. No new matter is believed to have been added.

Withdrawal of the objection is respectfully requested.

Claim Objections

Claims 7 and 8 were objected to as being in improper form.

These claims are amended to recite the features of the claims which were previously incorporated by , i.e., claims 3 and 4 respectively.

Withdrawal of the objection is respectfully requested.

Double Patenting

Claims 20-25 were rejected under 37 C.F.R. 1.75 for being substantial duplicates of claim 19.

These claims are cancelled, and withdrawal of the rejection is respectfully requested.

Claim Rejections-35 USC §112

Claims 22 and 25-27 were rejected under 35 U.S.C. §112, first paragraph for not complying with the enablement requirement. This rejection is respectfully traversed.

This rejection is moot with respect to claims 22, 25, and 27 as these claims are cancelled.

However, claim 26 is amended to clarify the type of pharmaceutically acceptable vehicle for injection, which is evident by the Examples. Thus, claim 6 complies with the enablement requirement.

Therefore, withdrawal of the rejection is respectfully requested.

Claims 1-6 and 9-28 were rejected under 35 U.S.C. §112, second paragraph for being indefinite. This rejection is respectfully traversed for the reasons below.

Claims 1, 4, 9 and 11 are amended to recite the features in a definite manner. Claims 21 and 27 are cancelled.

As to claim 12, solvents A, B, C and E and activator D are broadly described in the claim, e.g., the ability of the solvents to dissolve certain compounds. As pointed out in MPEP 2173.04, "Breadth of a claim is not to be equated with indefiniteness." *In re Miller*, 441 F.2d 689, 169 USPQ 597 (CCPA 1971). Moreover, these solvents and activator are further defined in the dependent claims.

Therefore, withdrawal of the indefinite rejection is respectfully requested.

Claim Rejections-35 USC §102

Claims 1 and 19-25 were rejected under 35 U.S.C. §102(b) as being anticipated by EL KIHIL et al. ("EL KIHIL"). This rejection is respectfully traversed for the reasons below.

Contrary to the position of the Official Action, EL KIHIL fails to disclose or suggest formula I as defined in claim 1. At best, EL KIHIL merely discloses a formula which appears to be *similar*.

Indeed, the compound cited in the Official Action is actually excluded by claim 1, i.e., if -X- = -CH₂-, n₀ = 1 and

all the numbers p1, p2, p3, p4 and p5 are zero, Q₁ is other than -NH₂.

Therefore, EL KIHTEL fails to anticipate claim 1, and claims depending therefrom, and withdrawal of the rejection is respectfully requested.

Claim Rejections-35 USC §103

Claims 1 and 19-28 were rejected under 35 U.S.C. §103(a) as being unpatentable over EL KIHTEL et al. ("EL KIHTEL"). This rejection is respectfully traversed for the reasons below.

** Determining the scope and the contents of the prior art*

The prior art is the publication of EL KIHTEL which describes similar compounds of formula I of claim I. In this publication, it is mentioned that these similar compounds have cytotoxic activity *in vitro*.

** Ascertaining the differences between the prior art and the claims at issue*

The object of the present claim 1 differs from the teaching of this previous publication at least by the fact that:

- in the present claim 1, the compounds defined by claim 1 are different than those of EL KIHTEL.

The effect of this difference is that the compounds of claim 1 are able to induce, *in vitro*, dendritogenesis, neuritogenesis and/or the production of secretory vacuoles in various tumoral cell lines.

** Resolving the level of ordinary skill in the pertinent art*

The person skilled in the art, who wants to solve the technical problem of obtaining dendritic cells from the publication of EL KIHIL, is a specialist in biochemistry and in particular in dendritogenesis.

** Considering objective evidence present in the application indicating obviousness or non obviousness*

The publication of EL KIHIL only concerns *in vitro* cytotoxicity activities of aminoalkylsterol having a formula similar to those defined by formula (I) of claim 1. Yet, an *in vitro* cytotoxicity activity does not produce inevitably an *in vivo* antitumorous effect. In addition, nowhere in this publication, it has been measured the cytotoxicity activity of these aminosterol on mammals. Furthermore, nowhere in this publication, it is disclosed or taught to use the compounds as defined in formula I according to the invention in order to induce dendritogenesis, neuritogenesis and/or the production of secretory vacuoles in various tumoral cell lines *in vitro and/or in vivo*.

Therefore, one of ordinary skill in the art would not have even approach the claimed invention in view of EL KIHIL, and withdrawal of the rejection is respectfully requested.

Conclusion

In view of the amendment to the claims and the foregoing remarks, this application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our credit card which is being paid online simultaneously herewith for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/Robert A. Madsen/
Robert A. Madsen, Reg. No. 58,543
209 Madison Street, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

RAM/jr